

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

PLANETSPACE INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 09-476C
)	(Judge Lawrence J. Block)
THE UNITED STATES,)	
)	
Defendant.)	
)	
SPACE EXPLORATION)	
TECHNOLOGIES CORPORATION,)	
)	
Intervenor, and)	
)	
ORBITAL SCIENCE CORPORATION,)	
)	
Intervenor.)	

DEFENDANT’S UNOPPOSED MOTION FOR LEAVE TO CORRECT
THE ADMINISTRATIVE RECORD

Pursuant to Rule 7(b) of the Rules of the United States Court of Federal Claims, defendant, the United States, respectfully requests that this Court grant us leave to correct the administrative record filed on August 13, 2009. Counsel for plaintiff, PlanetSpace Inc., and counsel for defendants-intervenors, Space Exploration Technologies and Orbital Science Corporation, have represented that they do not oppose this motion.

In preparing the administrative record, defendant unintentionally omitted the decision of the Comptroller General in plaintiff’s protest before the Government Accountability Office (“GAO”) regarding the solicitation at issue in this matter, as well as the legal memorandum filed by the National Aeronautics and Space Administration (“NASA”), and subsequent filings in this GAO protest. These omissions were brought to the attention of defendant’s counsel just this week.

The omitted pages contain documents related to the proceedings before the GAO.

Pursuant to 31 U.S.C. § 3556, both NASA's legal memorandum submitted to the GAO and the Comptroller General's subsequent decision "shall be considered to be part of the agency record subject to review" by this Court. 31 U.S.C. § 3556. Therefore, these documents should have been included in the administrative record. We also seek leave to include in the administrative record several other GAO filings and the transcript of the GAO hearing.

To that end, defendant proposes that the documents be incorporated in the administrative record as follows: Exhibit 1 be labeled "Tab 184" and numbered 30910; Exhibit 2 be labeled "Tab 185" and numbered 30954; Exhibit 3 be labeled "Tab 186" and numbered 30980; Exhibit 4 be labeled "Tab 187" and numbered 31046; Exhibit 5 be labeled "Tab 188" and numbered 31120; Exhibit 6 be labeled "Tab 189" and numbered 31727; and Exhibit 7 be labeled "Tab 190" and numbered 31755. Defendant also proposes that we provide CD-ROMs containing the corrected administrative record to the Court, counsel for plaintiff, and defendant-intervenors, and a hard copy of the documents added to the record to the Court.

For these reasons, defendant respectfully requests that this Court grant defendant leave to correct the administrative record, filed on August 13, 2009, to include the inadvertently omitted documents referenced above.

Respectfully submitted,

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Assistant Attorney General

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Director

s/ Alan Lo Re
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Dated: August 21, 2009

Attorneys for Defendant

CERTIFICATE OF FILING

I hereby certify that on the 21st day of August, 2009, a copy of the foregoing “DEFENDANT’S UNOPPOSED MOTION FOR LEAVE TO CORRECT THE ADMINISTRATIVE RECORD” was filed electronically. I understand that notice of this filing will be sent to all parties by operation of the Court’s electronic filing system. Parties may access this filing through the Court’s system.

s/ Stacey K. Grigsby